

January 3, 2019

VIA ECF

The Honorable Lorna G. Schofield
U.S. District Court
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

Re: *Contant, et al. v. Bank of Am. Corp., et al.*,
No. 17 Civ. 3139 (LGS) (S.D.N.Y.)

Dear Judge Schofield:

Pursuant to this Court's November 16, 2018 Order (ECF No. 176), the parties write to update the Court on the status of the above-captioned action.

Pending Motion to Dismiss/Pleadings

On November 20, 2018, Plaintiffs filed a Second Consolidated Class Action Complaint ("SAC") (amended in accordance with this Court's October 25, 2018 Order). (ECF No. 183.) On December 20, 2018, defendants Barclays Bank PLC; UBS AG; UBS Group AG; The Royal Bank of Scotland plc; Credit Suisse Group AG; Société Générale; HSBC Bank plc; MUFG Bank, Ltd.; Standard Chartered Bank; and BNP Paribas Group ("Foreign Defendants") jointly moved to dismiss the SAC for lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(2). (ECF Nos. 197-200.) Plaintiffs' opposition is due by January 28, 2019, followed by the Foreign Defendants' reply by February 19, 2019, on which date the motion will be fully briefed. (*See* ECF No. 176.) Non-moving Defendant¹ answers are due on or before January 11, 2019. (*See id.*)

Protective Order

On November 29, 2018, the parties (except Citibank) filed a fully-executed Stipulation and Proposed Order of Confidentiality substantially in the form approved by

¹ The term "Defendant" refers to all non-settling defendants. It excludes Citigroup Inc., Citibank, N.A., Citicorp, and Citigroup Global Markets Inc.

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this Court in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* (S.D.N.Y. No. 13-cv-7789) (“FOREX”). (ECF No. 184.) This Court entered the Stipulation and Order of Confidentiality on November 30, 2018. (ECF No. 185.)

Discovery

No discovery requests have been propounded to date. Pursuant to this Court’s November 16, 2018 Order (ECF No. 176), non-Foreign Defendants will produce to Plaintiffs by January 11, 2019, documents and recordings produced in discovery in the FOREX matter, as well as transactional data for spot FX Instrument transactions between Defendants and entities identified by Plaintiffs in November 21, 2018 correspondence as retail foreign exchange dealers (“RFEDs”). Defendants will make a supplemental production of transactional data for spot FX Instrument transactions between Defendants and RFEDs identified by Plaintiffs on December 21, 2018. Plaintiffs requested Defendants complete their productions by February 1, 2019. Although some Defendants may be able to provide the supplemental data by February 1, Defendants are committed to continuing to confer with Plaintiffs in good faith on this issue and to agree to a date once counsel have had an opportunity to consult with their clients regarding the timing of productions for the supplemental RFEDs requested by Plaintiffs on December 21, 2018. In accordance with the parties’ agreement after meeting and conferring, non-Foreign Defendants will produce transactional data for the period from December 1, 2005, through December 31, 2015, to the extent that data for that time period was previously produced in the FOREX matter. Initial disclosures will be due 30 days from the date on which a Defendant answers the Second Amended Complaint. (*See id.*)

Discovery is stayed as to Foreign Defendants in connection with the filing of their joint Rule 12(b)(2) motion. Initial requests to and from these defendants may be served 14 days from the denial of such motion. (*See* ECF No. 176.)

On December 20, 2018, to minimize the burden on deponents and ensure efficient conduct of discovery, Defendants submitted a Proposed Order Regarding Deposition Coordination in this matter and the related matters: (i) FOREX; (ii) *Nypl, et al. v. JPMorgan Chase & Co., et al.* (S.D.N.Y. No. 15-cv-9300); and (iii) *Allianz Global Investors GMBH, et al. v. Bank of America Corp., et al.* (S.D.N.Y. No. 18-cv-10364). (ECF No. 194.) This Court entered the Order Regarding Deposition Coordination on December 20, 2018 (ECF No. 195), pursuant to which the parties will submit a proposed order regarding the scheduling of depositions in these matters to the Court by February 18, 2019.

There are no discovery issues at this time that require the Court’s intervention.

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Respectfully submitted,

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